

security of any public-utility company, if such person is an affiliate under clause (A) of paragraph (11) of subsection (a) of section 79b of this title, of such company and of any other public utility or holding company, or will by virtue of such acquisition become such an affiliate.

(b) Acquisition of utility assets authorized by State Commission; holding company systems organized in same State

Subsection (a) of this section shall not apply to—

(1) the acquisition by a public-utility company of utility assets the acquisition of which has been expressly authorized by a State commission; or

(2) the acquisition by a public-utility company of securities of a subsidiary public-utility company thereof, provided that both such public-utility companies and all other public-utility companies in the same holding-company system are organized in the same State, that the business of each such company in such system is substantially confined to such State, and that the acquisition of such securities has been expressly authorized by the State commission of such State.

(c) Acquisition of securities guaranteed by United States, State, or political subdivision; other securities and commercial paper held appropriate by Commission

Subsection (a) of this section shall not apply to the acquisition by a registered holding company, or a subsidiary company thereof, of—

(1) securities of, or securities the principal or interest of which is guaranteed by, the United States, a State, or political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing;

(2) such other readily marketable securities within the limitation of such amounts, as the Commission may by rules and regulations prescribe as appropriate for investment of current funds and as not detrimental to the public interest or the interest of investors or consumers; or

(3) such commercial paper and other securities, within such limitations, as the Commission may by rules and regulations or order prescribe as appropriate in the ordinary course of business of a registered holding company or subsidiary company thereof and as not detrimental to the public interest or the interest of investors or consumers.

(Aug. 26, 1935, ch. 687, title I, § 9, 49 Stat. 817.)

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

CROSS REFERENCES

Rules and regulations, authority of Commission to make, issue, amend, and rescind, see section 79t of this title.

§ 79j. Approval of acquisition of securities and utility assets and other interests

(a) Contents of application

A person may apply for approval of the acquisition of securities or utility assets, or of any other interest in any business, by filing an application in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors and consumers. Such application shall include—

(1) in the case of the acquisition of securities, such information and copies of such documents as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers in respect of—

(A) the security to be acquired, the consideration to be paid therefor, and compliance with such State laws as may apply in respect of the issue, sale, or acquisition thereof,

(B) the outstanding securities of the company whose security is to be acquired, the terms, position, rights, and privileges of each class and the options in respect of any such securities,

(C) the names of all security holders of record (or otherwise known to the applicant) owning, holding, or controlling 1 per centum or more of any class of security of such company, the officers and directors of such company, and their remuneration, security holdings in, material contracts with, and borrowings from such company and the offices or directorships held, and securities owned, held, or controlled, by them in other companies,

(D) the bonus, profit-sharing and voting-trust agreements, underwriting arrangements, trust indentures, mortgages, and similar documents, by whatever name known, of or relating to such company,

(E) the material contracts, not made in the ordinary course of business, and the service, sales, and construction contracts of such company,

(F) the securities owned, held, or controlled, directly or indirectly, by such company,

(G) balance sheets and profit and loss statements of such company for not more than the five preceding fiscal years, certified, if required by the rules and regulations of the Commission by an independent public accountant,

(H) any further information regarding such company and any associate company or affiliate thereof or its relations with the applicant company, and

(I) if the applicant be not a registered holding company, any of the information and documents which may be required under section 79e of this title from a registered holding company;

(2) in the case of the acquisition of utility assets, such information concerning such assets, the value thereof and consideration to be paid therefor, the owner or owners thereof and their relation to, agreements with, and inter-

est in the securities of, the applicant or any associate company thereof as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(3) in the case of the acquisition of any other interest in any business, such information concerning such business and the interest to be acquired, and the consideration to be paid, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) Conditions affecting approval

If the requirements of subsection (f) of this section are satisfied, the Commission shall approve the acquisition unless the Commission finds that—

(1) such acquisition will tend towards interlocking relations or the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interest of investors or consumers;

(2) in case of the acquisition of securities or utility assets, the consideration, including all fees, commissions, and other remuneration, to whomsoever paid, to be given, directly or indirectly, in connection with such acquisition is not reasonable or does not bear a fair relation to the sums invested in or the earning capacity of the utility assets to be acquired or the utility assets underlying the securities to be acquired; or

(3) such acquisition will unduly complicate the capital structure of the holding-company system of the applicant or will be detrimental to the public interest or the interest of investors or consumers or the proper functioning of such holding-company system.

The Commission may condition its approval of the acquisition of securities of another company upon such a fair offer to purchase such of the other securities of the company whose security is to be acquired as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) Conditions barring approval

Notwithstanding the provisions of subsection (b) of this section, the Commission shall not approve—

(1) an acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of section 79h of this title or is detrimental to the carrying out of the provisions of section 79k of this title; or

(2) the acquisition of securities or utility assets of a public-utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending towards the economical and efficient development of an integrated public-utility system. This paragraph shall not apply to the acquisition of securities or utility assets of a public-utility company operating exclusively outside the United States.

(d) Approval to be granted in reasonable time

Within such reasonable time after the filing of an application under this section as the Com-

mission shall fix by rules and regulations or order, the Commission shall enter an order either granting or, after notice and opportunity for hearing, denying approval of the acquisition unless the applicant shall withdraw its application. Amendments to an application may be made upon such terms and conditions as the Commission may prescribe.

(e) Terms and conditions of order granting approval

The Commission, in any order approving the acquisition of securities or utility assets, may prescribe such terms and conditions in respect of such acquisition, including the price to be paid for such securities or utility assets, as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

(f) Compliance with State laws as condition of approval

The Commission shall not approve any acquisition as to which an application is made under this section unless it appears to the satisfaction of the Commission that such State laws as may apply in respect of such acquisition have been complied with, except where the Commission finds that compliance with such State laws would be detrimental to the carrying out of the provisions of section 79k of this title.

(Aug. 26, 1935, ch. 687, title I, § 10, 49 Stat. 818.)

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

CROSS REFERENCES

Unlawful acquisition of securities and utility assets, see section 79i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18, 79i of this title.

§ 79k. Simplification of holding company systems

(a) Examination by Commission with view to simplification

It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding-company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of an integrated public-utility system.

(b) Limitations on operations of holding company systems

It shall be the duty of the Commission, as soon as practicable after January 1, 1938: